

## Internal Revenue Service

Number: **200935009**

Release Date: 8/28/2009

Index Number: 1032.00-00

## Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B03

PLR-111921-09

Date:

May 29, 2009

### Legend

Taxpayer =

Sub 1 =

Sub 2 =

Sub 3 =

Country A =

Country B =

Country C =

Business =

Year 1 =

Date 2 =

x =

y =

Dear :

We respond to your letter dated March 3, 2009 requesting a ruling concerning the federal income tax consequences of a transaction. The material information submitted for consideration is summarized below.

Taxpayer is a publicly traded corporation and the parent of an affiliated group of corporations that file a consolidated federal income tax return. Taxpayer directly or indirectly owns all of the stock of Subsidiaries 1, 2, and 3 (the "Subsidiaries"), companies organized under the laws of Countries A, B, and C, respectively, but which are treated as corporations for U.S. federal income tax purposes. Taxpayer and the Subsidiaries are engaged in Business.

In Year 1, Taxpayer adopted a stock-based compensation plan as part of its overall compensation structure (the "Year 1 Stock Plan"), which includes awards of restricted stock and restricted stock units ("RSU Awards"). The RSU awards provide for a specified number of shares of Taxpayer stock to be delivered to employees on the specified vesting dates. The employees make no payments to receive shares under the RSU Awards.

The RSU Awards are fixed at grant in terms of the number of shares and vest ratably over an x year period. Certain RSU Awards are granted subject to an initial performance period and performance targets and the number of shares subject to each such RSU Award is determined at the end of the performance period and such RSU Award vests over an additional y year period.

During the fiscal year ending Date 2, Taxpayer transferred Taxpayer stock (within the meaning of §1.83-3 of the Income Tax Regulations) to employees of the Subsidiaries who hold RSU Awards under the Year 1 Stock Plan. The transfers were for the number of shares vesting during the Date 2 fiscal year under the RSU Awards. The Subsidiaries now seek to make payments to Taxpayer (the "Reimbursements") to reimburse Taxpayer for the value of the Taxpayer shares vested and delivered during the year under the RSU Awards. The Reimbursements will equal the fair market value of the Taxpayer shares received by the employees of the Subsidiaries at the time of vesting of the RSU Award and delivery of the shares to the employees.

Based solely on the information submitted, we rule as follows:

- (1) The Reimbursements will not constitute a distribution by the Subsidiaries with respect to their stock to Taxpayer or to other intermediary companies, within the meaning of §301(a) of the Internal Revenue Code.
- (2) Pursuant to §1.1032-3, Taxpayer will recognize no gain or loss with respect to the receipt of the Reimbursements from the Subsidiaries.
- (3) Taxpayer will be deemed, pursuant to §1.1032-3, to have made cash contributions to the Subsidiaries in an amount, if any, equal to the excess of the fair market value of Taxpayer stock delivered upon the vesting of the RSU Awards over the fair market value of the money or other property, if any, that Taxpayer received as payment from the Subsidiaries (including the Reimbursements), and accordingly, will adjust its basis in its stock in the Subsidiaries pursuant to §358 and the regulations thereunder.

The rulings contained in this letter are based upon information submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is direct only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

---

Mark Weiss  
Assistant to the Chief, Branch 1  
Office of Associate Chief Counsel (Corporate)

cc: